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Via Facsimile (415) 703-2200,
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CPUC Energy Division
Attention: Energy Unit
California Public Utilities Commission
505 Van Ness Avenue, Room 4002
San Francisco, CA. 94102

Dear Program Manager:

Protest of Net Energy Metering Combined Technology (NEM-CT) Tariff
SDG&E Advice Letter 1777-E dated February 27, 2006
SCE Advice Letter 1979-E dated February 22, 2006
PG&E Advice Letter 2793-E dated February 27, 2006

The City of San Diego (City) hereby protests all of the above referenced advice letter filings of the three major investor owned electric utilities (IOUs). These advice letters uniformly concern the subject of Net Energy Metering for Combined Technology (NEM-CT). Though primarily concerned with defects in the San Diego Gas & Electric Company (SDG&E) advice letter 1777-E, the topic of tariffs for NEM-CT has statewide reach and the City is thus compelled to also protest the defects in the filings of Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E), lest regulatory inconsistencies result. This collective protest to the NEM-CT advice letters of the IOUs is based on the following explanation:

On February 22, 2004 (SCE) and February 27, 2004 (PG&E and SDG&E) filed the above referenced advice letters to establish schedules to address net energy metering for combined technology generation facilities.[1] A review of the advice letters reveals that none of the three proposed tariffs comply with the clear language of Decision 05-08-013. All three advice letters inappropriately request implementation of a "pro-rata" method of determining the amount of electricity eligible for net energy metering (NEM) from facilities with both NEM and non-NEM compliant technologies. This method was rejected by D.05-08-013. The City therefore urges the Commission to reject these non-compliant advice letters and order the utilities to file schedules that comport to D.05-08-013.

[1] SCE Schedule CT-NEM, SDG&E Schedule NEM-CT, and PG&E Schedule NEMCT.

Background

As part of Rulemaking 04-03-017 to address policies for distributed generation (DG), the California Energy Commission (CEC) collaborated with the Rule 21 Working Group to update utility tariff rules for DG interconnections to the utilities' distribution systems. This effort resulted in a CEC staff report dated February 2, 2005 titled "Recommended Change to Interconnection Rules" (CEC Report). A key issue to the City that was addressed in those meetings with the Rule 21 Working Group and the CEC was the treatment of customers that have installed both NEM-eligible and non-NEM-eligible generation technologies. In those meetings, and in R.04-03-017 the City argued for what came to be known as the "stacking" method, in which the customer is credited for exported power up to the output of the NEM-eligible generator, even when the non-NEM eligible generator is also in operation.[2] In commenting on the CEC report, the "City commend(ed) the CEC's Integrated Energy Policy Report (IEPR) Committee for its recommendation (in an IEPR report dated April 21, 2004) that there be no restrictions on the export of power from an NEM generator while a non-NEM generator is operating. The IEPR Committee recognized that there are no technical constraints which would prevent the export of power from a combined technology facility (see IEPR p.39). Thus, the issue becomes one of tariff administration. Existing interconnection agreements and related tariffs do not address facilities where multiple tariffs apply (IEPR p.40). The IEPR Committee found that preventing power exports from an NEM generator while a non-NEM generator is operating results in reduced economic benefits, reduced operating efficiencies, and less new generation."[3] The IOUs argued otherwise, stating such treatment was inappropriate and contrary to Public Utilities Code Section 2827 (a).[4]

In regard to this issue, the CEC Report stated:

> …[T]he Energy Commission agrees with the City of San Diego and concludes that any methodology preventing export from the NEM generator while the non-NEM generator is operating is inappropriate. Doing so potentially reduces the economic benefit the customer might otherwise enjoy under the NEM tariff, potentially reduces the efficiency at which the non-NEM generator operates, and runs counter to the state's need for additional generation. On the latter note, the Energy Commission disagrees with the utilities' notion that net metered projects are intended solely to reduce peak demand. The original intent of Section 2827 has changed since it was established in the mid-1990s. The permanent expansion of the net metering program consistent with the passage of Senate Bill 28X1 (Statutes of 2002) is testimony to this change. (p. 40).

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[2] Report page 38; Comments of the City of San Diego on Interconnection Issues (March 14, 2005, R.04-03-017) at pp. 4-5.

[3] Id.

[4] CEC Report, page 38, which incorrectly cites to Public Utility Code Section 2728 (a)

The CEC Report was admitted as evidence in R.04-03-017 and was fundamental to Decision 05-08-013. The decision prompted the filing of the above referenced advice letters, and it generally supported the CEC's conclusion on this matter. The Commission held:

> Subject to certain conditions, a utility may not restrict export from a NEM DG while a non-NEM DG on the same meter/account is supplying the customer's load from a facility that applies more than one technology using more than one tariff; (D.05-08-013 at p. 4)

And, after explicitly noting the IOU's objections to the so-called "stacking" method, the Decision states:

> We concur with the CEC's general policy that protects the export for credit of NEM energy into the utility system. (D.05-08-013 at p. 14)

The decision also instituted safeguards to insure that customers do not "game" the system by attempting to export energy from non-NEM systems or installing a NEM-eligible technology solely for the purpose of energy export.

> We will adopt the CEC's recommendation with three protections proposed by SCE designed to assure the policy protects utility ratepayers while furthering the state's general goal of promoting renewable energy technologies. First, any energy reported by the NEM generator that exceeds the customer's annual energy usage from the utility will not be compensated, a requirement that is already in effect. Second, in no event will non-NEM generators receive credits and tariff exemptions designed for NEM generators. Third, and in order to assure that non-NEM generators do not receive NEM credits, any DG operating a combined technology DG facility must install, at its cost, metering for the separation of energy measurements of NEM and non-NEM generators or relays that prevent export from the non-NEM generators at all times, unless an export agreement is executed. (D.05-08-013 at p. 14)

This acceptance of having no limitation on the export of NEM-eligible generation, subject only to the three protective conditions, was incorporated into the legal conclusions of D.05-08-013 in Ordering Paragraph 2, fifth bullet at p. 22:

- With regard to DG facilities that include an NEM-eligible generator and a generator that does not qualify for net energy metering (non-NEM): (1) any energy generated by the renewable DG that exceeds the customer's annual energy usage will not be compensated as renewable DG; (2) in no event will non-net metering generators receive credits designed for NEM projects;

> and (3) any DG owner operating under two tariffs must install at its cost individual meters for the separate generators or breakers that prevent export from the non-net metering generator. Otherwise, for DG facilities that operate under two tariffs applicable to different technologies, utility tariffs should prohibit any provision or methodology that prevents export from an NEM generator even if the non-NEM generator is operating.

Paraphrased, the first protection states than a customer with both NEM-eligible and non-NEM-eligible generation cannot be a net exporter to the grid. In the event that a customer supplies more power to the grid than it consumes from the IOU on an annual basis, the customer's net bill cannot be less than zero (i.e. the customer cannot be entitled to positive – as opposed to net – payment absent a contract). Any excess generation would be supplied to the IOU for free. The second and third safeguards insure that the customer does not inappropriately receive any NEM-specific credits for non-NEM generation and that the non-NEM generator cannot physically export to the grid.

IOU's Proposed Schedules

All three IOUs effectively ignore the CEC Report and Commission Decision by proposing tariff schedules that limit the export for credit of NEM energy into their systems. All three propose schedules that use the utility-created "pro-rata" method for calculating any NEM energy export credits. Rather than crediting excess energy generated by NEM-eligible technologies, the IOUs reduce the amount by the fraction of overall power generated on site provided by the NEM-eligible technology.[5]

As SCE points out in its advice letter 1969-E, this method was considered by the Rule 21 Working Group. What SCE does not say is that it was **rejected** by the CEC in the Report.[6] Because the Commission concurred with the CEC's recommendations, it too rejected this method. Furthermore, the IOU's were not confused as to what the Report was saying; all three filed comments on the CEC Report, clearly acknowledging that the Report recommended the "stacking" method but arguing strongly against it.[7]

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[5] For example, at given hour a customer cogeneration system provides 300 kWh, its photovoltaic array provides 200 kWh, and the site consumers 550 kWh. It therefore exports to the grid 50 kWh. Under the IOUs' proposals, the customer would not get credit for those 50kWh but instead get credited for 50 kWh * (200 kWh/(200kWh+300kWh), or 20 kWh.

[6] Report, page 40.

[7] Comments Of Southern California Edison Company (U 338-E) On Interconnection Report Issued By The California Energy Commission, March 14, 2005, page 8; Comments Of Pacific Gas And Electric Company On Interconnection Report Issued By The California Energy Commission, pages 10-12; Comments Of Pacific Gas And Electric Company On Interconnection Report Issued By The California Energy Commission, page 9-10.

However, rather than implement the clear language of the Decision supporting the CEC Report, the IOUs chose to essentially re-argue their cases in their advice letters and propose combined-technology net energy metering tariffs that simply comported with their view of how the tariff should be implemented.

The City does acknowledge that SCE and SD&GE at least present alternative tariffs based on the "stacking" methodology, but they also argue against this methodology and request that it not be implemented. SDG&E notes that "[s]hould the Commission have intended to adopt the CEC proposal then SDG&E submits the alternate tariffs to the Commission for approval." [8] As already cited, language of D.05-08-013 clearly states the Commission's intention to adopt the CEC proposal. Therefore, SDG&E's Attachment B "Net Energy Metering for combined Technology Generation Facilities (Stacking Method), best comports with the D.05-08-013. But SDG&E concedes its current filing on this methodology is not complete and it proposes to "file a subsequent advice letter with final tariff sheets and the related customer application form once the Commission has addressed this instance advice letter." [9] The City questions the withholding of complete tariff sheets for this conforming Attachment B and submits that timing of implementation should not be further delayed.

Timing of Tariff Implementation

D.05-08-013 states that these net energy metering for combined technologies tariffs were to be filed no later than six months from the date of the order: February 27, 2006.[10] All three utilities took the full six months to do so, and when they finally did, the advice letters they filed were not conforming to the decision. In the mean time, the City, and likely others throughout the state, have had the ability to contribute power to the utility grid, but given current rules, they are unable to do so. SDG&E's request for an additional three months to implement its Appendix B tariffs because of "extensive system modifications" is not reasonable. SDG&E's current system relies upon manual calculation for net energy metered customers. As presented in Appendix B, the tariff is defined; there is no reason that this tariff cannot be implemented immediately and customers' bills calculated manually until the system modifications are made. Customers such as the City have been waiting over six months for these tariffs to be implemented; there is no reason to make them wait an additional three months.

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[8] SDG&E AL 1777-E, page 2.

[9] Id.

[10] Ordering Paragraph 2. Technically, six months from the adoption of D.05-08-013 would have been February 25, but as that fell on a Saturday, SDG&E and PG&E filed their tariffs on the following Monday, February 27.

Conclusion

Although they argue against them, SCE and SD&GE at least present tariffs based on the "stacking" method. The City urges the Commission to reject the IOU's preferred tariffs (i.e., reject their unacceptable "pro rata" formats) for net energy metering for combined technologies. The Commission should approve SCE's and SDG&E's alternative tariffs that utilize the "stacking" method, and direct PG&E to file a tariff that comports with the clear language of D.05-08-013. Finally, the Commission should move ahead and establish the conforming tariffs now, and not allow another three months of delay before requiring the utilities to comply.

Sincerely yours,

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